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Summary record of the 55th meeting
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Chairman: Ms. Wensley ..... (Australia)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

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00-36150 (E)

The meeting was called to order at 10.10 a.m.

Agenda item 118: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

Agenda item 164: Human resources management (*continued*)

Proposed Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission (A/54/695 and Corr.1)

Regulations governing the status, basic rights and duties of the Secretary-General (A/54/710 and Corr.1)

1. **Mr. Connor** (Under-Secretary-General for Management), introducing the reports of the Secretary-General on the proposed Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission (A/54/695 and Corr.1) and on the regulations governing the status, basic rights and duties of the Secretary-General (A/54/710 and Corr.1), recalled that, in paragraph 9 of its resolution 52/252, the General Assembly had requested the Secretary-General to expedite the submission to the Assembly, by its fifty-fourth session, of appropriate regulations and rules governing the status, basic rights and duties of the Secretary-General, officials other than Secretariat officials and experts on mission. In paragraph 1 of the same resolution, the Assembly had adopted the revised text of article 1 of the Staff Regulations and had taken note of the revised text of chapter 1 of the 100 series of the Staff Rules applicable to United Nations staff members.

2. The report contained in document A/54/695 and Corr.1 presented the Secretary-General's proposals for regulations governing the status, basic rights and duties of officials who performed services for the United Nations on a substantially full-time basis but who were not staff members and of experts who performed assignments for the Organization. Persons included in the first category had been consistently referred to by the Assembly as officials other than Secretariat officials. Individuals given the status of experts on mission included those who had been designated by United Nations organs to carry out missions or functions for the Organization, such as rapporteurs of the Commission on Human Rights and members of the International Law Commission.

3. The text of the proposed Regulations consisted of draft regulation 1 on the status of officials other than Secretariat officials and experts on mission, draft regulation 2 on the conduct of such officials and draft regulation 3 on their accountability. The proposed Regulations were modelled on article 1 of the Staff Regulations and chapter 1 of the 100 series of the Staff Rules, as revised pursuant to Assembly resolution 52/252.

4. Annex II to document A/54/695 set out the text of the Regulations together with an explanatory Commentary, which would be issued as an official publication in booklet form. The Commentary, however, would not be part of the Regulations and thus technically was not a legal norm and did not have the legal force of a rule.

5. The issues addressed in the proposed Regulations included the requirement to uphold the highest standards of efficiency, competence, integrity, loyalty and impartiality; the requirement to exercise the utmost discretion in regard to all matters of official business; the prohibition of the acceptance of any favour, gift or remuneration from any Government or non-governmental source for activities carried out while in the service of the United Nations; the requirement to comply with legal obligations; avoidance of conflict of interest and financial disclosure and accountability.

6. With regard to the regulations governing the status, basic rights and duties of the Secretary-General, the report of the Secretary-General (A/54/710 and Corr.1) did not propose any draft regulations for the Secretary-General, since, in reviewing the Charter for the purpose of developing such draft regulations and rules, it had become apparent that, with the exception of the oath or declaration of office to be made by the Secretary-General, the provisions of the Charter relating to the Secretary-General appropriately addressed the status, basic rights and duties of the Secretary-General.

7. **Mr. Nee** (United States of America) observed that certain elements of the Staff Regulations and Rules were not contained in the proposed Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission. For example, the proposed Regulations contained no provision equivalent to the provisions of

the Staff Regulations governing the proper use of the assets of the Organization or the requirement for a full response to requests for information related to investigations. His delegation would welcome an item-by-item comparison between the existing regulations governing the basic rights of staff and those proposed for other officials other than Secretariat officials and experts on mission.

8. **Ms. Achouri** (Tunisia) drew attention to the text of a letter dated 10 February 2000 from the Chairman of the International Civil Service Commission (ICSC) addressed to the Secretary-General, which had been circulated to members of the Committee. In his letter the Chairman of ICSC had expressed concern about the legal and practical difficulties and issues raised by the proposed inclusion of the Chairman and Vice-Chairman of ICSC among officials to be subject to the proposed Regulations. The mandate of ICSC covered all of the organizations of the United Nations common system and several of the proposed Regulations which referred to the United Nations only were therefore contrary to the letter and spirit of its statute insofar as their application to the Chairman and Vice-Chairman of ICSC was concerned. The arguments presented by the Chairman of ICSC were legally well grounded and her delegation would welcome clarification of the situation of ICSC with regard to the proposed Regulations. It also wished to know whether the Secretariat had replied to the letter from the Chairman of the Commission.

9. **Ms. Silot Bravo** (Cuba) said that the Secretary-General's proposals merited careful review, including a comparison between the existing regulations governing United Nations staff members and those that would apply to officials other than Secretariat officials and experts on mission. The Committee might wish to consider further the situation of special rapporteurs and the Chairman and Vice-Chairman of ICSC. Account should be taken of the views which the Chairman of ICSC had expressed in his letter to the Secretary-General.

10. **Mr. Connor** (Under-Secretary-General for Management), responding to the comments and questions of members of the Committee, said that there were a dozen or so differences between the requirements placed upon staff members and those placed on officials other than Secretariat officials and experts on mission. For example, staff were subject to the authority of the Secretary-General, while officials other than Secretariat officials and experts on missions were not. Staff were also required to work only for the Organization and were not allowed to engage in outside activities. The Secretariat would prepare a comparative list of the differences in requirements, as requested.

11. On behalf of the Secretary-General, the Legal Counsel had replied on 10 March to the letter of the Chairman of ICSC and had stated that he did not believe that the draft Regulations required revision. The text of the letter could be made available to the Committee if it so requested.

12. **Mr. Corell** (Under-Secretary-General, The Legal Counsel), replying to the question asked by the representative of the United States of America, said that a table of concordances had already been prepared and could be made available and elaborated upon in informal consultations.

13. In response to the concerns expressed by the representatives of Cuba and Tunisia, all the parties, including the Chairman and Vice-Chairman of ICSC, had been consulted prior to the elaboration of the draft Regulations and had accepted the Secretary-General's proposals. It had therefore come as a surprise when ICSC had later changed its position.

14. In terms of procedure, he was not aware that the Chairman of ICSC had submitted his letter to the Secretary-General via the Fifth Committee and therefore, in all fairness, his own reply should not be submitted in that way.

15. In substantive terms, he did not believe that the draft provisions should be changed. The Committee might, however, wish to add a few words to the Commentary in order to further clarify the situation. He would be willing to discuss the matter further in informal consultations.

16. **Ms. Silot Bravo** (Cuba) asked what the legal status of the booklet, to be issued as an official publication, containing the Secretary-General's explanatory comments would be.

17. **Mr. Corell** (Under-Secretary-General, The Legal Counsel) said that such commentaries were a common feature in many countries and could be likened to *travaux préparatoires*. While the focus was on the body of the legislation in question, it was often useful to save information that had been collected during the elaboration of the legislation, since such information might later contribute to a fuller understanding of the

law and of the legislators' intent. The Commentary might prove particularly useful to persons who were new to the Organization, such as newly elected rapporteurs and other officials.

Agenda item 121: Proposed programme budget for the biennium 2000-2001 (*continued*)

Review of the resource requirements for the High-Level Intergovernmental Event for Financing for Development and the Third United Nations Conference on the Least Developed Countries (A/54/7/Add.13; A/C.5/54/50)

18. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the Advisory Committee's report on the review of the resource requirements for the High-Level Intergovernmental Event for Financing for Development and the Third United Nations Conference on the Least Developed Countries (A/54/7/Add.13), noted that the Secretary-General proposed to revert to the matter of the High-Level Intergovernmental Event, as indicated in paragraph 2 of document A/C.5/54/50.

19. The funding of the cost of intergovernmental representatives of the least developed countries attending the Conference and its preparatory meetings had first been reported on by the Secretary-General in his statement of programme budget implications contained in document A/C.5/54/43 and by the Advisory Committee in document A/54/675. Those activities were to be funded from extrabudgetary resources. Should that not be entirely possible, the Secretary-General was required to report to the General Assembly. In his most recent report the Secretary-General had informed the General Assembly that an appeal for extrabudgetary resources had been made. It was still too early to predict the outcome of the appeal and the Advisory Committee therefore recommended that the Secretary-General should further inform the General Assembly of the status of voluntary contributions received at the second part of the resumed fifty-fourth session.

20. **Ms. Leonce** (Saint Lucia), speaking on behalf of the small island developing States, said that the small island developing States attached great importance to the High-Level Intergovernmental Event for Financing for Development and the Third United Nations Conference on the Least Developed Countries. The United Nations Conference on Trade and Development (UNCTAD) had an important role to play in both events. In the case of the Intergovernmental Event for Financing for Development, it assisted developing countries in their preparation and contributed substantively to the preparatory process. It was also the main organizer of the Third United Nations Conference on the Least Developed Countries. It was therefore a matter of concern to the small island developing States, many of which were also least developed countries, that no provision had been made in the budget for the biennium 2000-2001 for the financing for development activities of UNCTAD. The financial appropriations for the Conference on the Least Developed Countries were also very inadequate.

21. While the Secretary-General had made no specific proposals on the item in his report (A/C.5/54/50), provision of sufficient resources must be made at the current part of the Assembly's resumed session in order to ensure that the resources would be available once those proposals were made. The small island developing States therefore supported the proposal made by the Group of 77 and China to set aside the unspent balance from the budget for the biennium 1998-1999 for the activities of UNCTAD in the areas of financing for development and the Conference on the Least Developed Countries.

22. The Secretary-General should make specific proposals for the two events at the next part of the resumed session. Those proposals should take full account of the concerns of small island developing States.

23. She wished to recall the Fifth Committee's decision to establish a unit on landlocked least developed countries and small island developing States within the Office of the Special Coordinator for Africa and the Least Developed Countries and to allocate a number of Professional and General Service posts, including one General Service post in the New York Liaison Office of UNCTAD. The Committee's decision should be implemented without delay and the Secretariat should inform the Committee of the status of its implementation.

24. **Mr. Repasch** (United States of America) said that his delegation supported the conclusions and recommendations contained in the report of the Advisory Committee (A/54/7/Add.13).

25. **Mr. Hassan** (Nigeria), speaking on behalf of the Group of 77 and China, expressed concern at the inadequate provision of resources to finance the two events. He would pursue the matter further in informal consultations.

26. **Ms. Silot Bravo** (Cuba) noted that, in its resolution 54/251, the General Assembly had concurred with the recommendation of the Advisory Committee that, on an exceptional basis, the special account should be maintained and the unspent balance from the budget for the biennium 1996-1997 retained until all the activities and programmes outlined in the report of the Secretary-General contained in document A/52/898 and Corr.1 had been completed. She noted further that the unspent balance had been earmarked for the financing of meetings of expert groups for the Conference. Her delegation was concerned, however, at the provisions that had been made by the Second Committee for financing the preparatory activities for the Third Conference on the Least Developed Countries, which were a violation of established budgetary procedures. It shared the Advisory Committee's concern at the tendency of substantive Committees and other intergovernmental bodies to involve themselves in administrative and budgetary matters.

27. Upon the recommendation of the Second Committee, the General Assembly had decided to defray the cost of the participation of two government representatives from each least developed country in the meetings of the Preparatory Committee and of the Conference itself through the use of extrabudgetary resources. It appeared, however, that those resources were insufficient for the first segment of the preparatory process. The lack of resources jeopardized not only the preparatory process but the Conference itself. It would therefore be useful to know how it was proposed to use the unspent balances from the regular budget for the biennium 1996-1997 that had been earmarked for expert group meetings, what the status of extrabudgetary contributions for the financing of the first segment of the preparatory process was and what other funding options would be used in the event that voluntary contributions proved insufficient.

28. **Mr. Ramos** (Portugal), speaking on behalf of the European Union, said that the report of ACABQ accurately reflected the situation with respect to the financing of the Third United Nations Conference on the Least Developed Countries. The European Union supported the Advisory Committee's recommendation in paragraph 10 of its report that the Secretary-General should further inform the General Assembly at the second part of its resumed fifty-fourth session of the status of voluntary contributions received to defray the cost of participation of government representatives from least developed countries in the meetings of the Preparatory Committee and the Conference itself. Only then should the Assembly consider other sources of finance, including, as an exceptional measure, the use of unspent balances from the regular budget for the biennium 1996-1997.

29. **Mr. Zhou Qiangwu** (China) said that his delegation supported the Advisory Committee's statement in paragraph 4 of its report that the Fifth Committee was the Main Committee of the General Assembly with responsibility for administrative and budgetary matters, and it was therefore concerned at certain provisions of draft resolution A/C.2/54/L.73 adopted by the Second Committee. It fully concurred with the views expressed by the representative of Cuba on that point.

30. **Mr. Kittikhoun** (Lao People's Democratic Republic), speaking on behalf of the group of landlocked developing countries, said that those States, most of which were also least developed countries, had been identified as a specific group requiring special attention in the context of financing for development, and the High-Level Intergovernmental Event for Financing for Development and the Third United Nations Conference on the Least Developed Countries were therefore of great interest to them. They strongly supported the utilization of the unspent balance from the UNCTAD budget for the biennium 1998-1999 to enable the UNCTAD secretariat to discharge effectively the additional responsibilities assigned to it in connection with the Event and the Conference. The UNCTAD secretariat should ensure that the concerns of landlocked developing countries were adequately reflected in future proposals concerning those two forums. In that connection he wished to know what progress had been made in implementing the provisions of paragraph 16 of General Assembly resolution 54/235 concerning the strengthening of the Office of the Special Coordinator for Least Developed, Landlocked and Island Developing Countries.

31. **Mr. Sach** (Director, Programme Planning and Budget Division) said that the efforts to solicit voluntary contributions in order to defray the cost of

participation of government representatives of least developed countries in the meetings of the Preparatory Committee for the Third United Nations Conference on the Least Developed Countries and the Conference itself would continue and that the Committee would be informed of the outcome of those efforts at the second part of the resumed fifty-fourth session of the General Assembly in May. Since the first session of the Preparatory Committee would not be held until July, there would still be time to consider other options should the extrabudgetary resources raised prove insufficient. The unspent balance from the regular budget for the biennium 1996-1997 had been programmed and continued to be utilized for the purposes stipulated in General Assembly resolution 53/3 and could not therefore be regarded as an alternative source of finance. However, a number of other options remained under review. The Secretariat was fully aware of the importance attached by Member States to the successful outcome of the preparatory process for the Conference and the Conference itself.

32. Replying to the question posed by the representative of the Lao People's Democratic Republic, he said that the additional resources required to strengthen the Office of the Special Coordinator for Least Developed, Landlocked and Island Developing Countries had been provided to UNCTAD and were being utilized as envisaged.

33. **Ms. Silot Bravo** (Cuba) reiterated her delegation's concern at the failure to attract voluntary contributions to defray the costs referred to in paragraph 14 of General Assembly resolution 54/235. She said that it was still not clear to her delegation what the status was of the sum earmarked for financing the expenses of experts attending expert meetings convened by the commissions of the Trade and Development Board.

34. **Mr. Burley** (United Nations Conference on Trade and Development) said that it had been agreed, at the ninth session of UNCTAD, that the commissions of the Trade and Development Board would convene ten expert meetings annually. The topics of the ten expert meetings to be held in 2000 were currently being determined. Travel to those meetings of experts from developing countries had been financed and would continue to be financed from the unspent balance from the regular budget for the biennium 1996-1997, as approved by the General Assembly.

Review and assessment of the asbestos problem at the United Nations: management of asbestos-containing materials at the United Nations Headquarters buildings (A/54/7/Add.12 and A/54/779)

35. **Mr. Niwa** (Assistant Secretary-General for Central Support Services), introducing the report of the Secretary-General on the review, assessment and management of the asbestos problem at the United Nations (A/54/779), said that it provided an assessment of existing conditions with regard to asbestos-containing materials at Headquarters and a review of measures and procedures being followed in order to ensure that the presence of such materials had no harmful effect on the health of delegates, staff members or other persons working in and visiting the buildings. The report confirmed that all necessary measures to manage asbestos-containing materials in the buildings were being implemented in complete compliance with the safety standards and guidelines of the host country. Such measures included regular physical inspections; air-quality testing twice yearly; removal of asbestos-containing materials from areas in which they might be disturbed due to maintenance or renovation work; and use of duly licensed contractors for testing and removal, which always took place outside working hours. There had been no known incident of asbestos contamination anywhere in the Headquarters buildings. Implementation of the asbestos management programme begun in the 1980s would continue until such time as total removal could be undertaken in the context of the capital master plan. The Secretariat had written to the United Nations Offices at Geneva, Vienna and Nairobi and the regional commissions requesting information on the presence and management of asbestos-containing materials in their respective buildings pursuant to the recommendation contained in paragraph 8 of the related report of ACABQ (A/54/7/Add.12).

36. **Mr. Mselle** (Chairman of the Advisory Committee on Administrative and Budgetary Questions), introducing the related report of ACABQ (A/54/7/Add.12), said that, as stated in paragraph 3, since measures to manage asbestos had begun at United Nations Headquarters 30 per cent of the asbestos had been removed. The Advisory Committee noted in paragraph 4 of its report, that it was not possible to remove all the asbestos-containing materials from the Headquarters buildings without vacating and isolating

multiple floors and that that would be undertaken in the context of the capital master plan. It took note, in paragraph 5, of the measures being taken by the Secretariat for the management of asbestos. As indicated in paragraph 6, complaints concerning asbestos were investigated by a licensed independent contractor.

37. **Mr. Repasch** (United States of America) said that his delegation welcomed the report of the Secretary-General, which provided a comprehensive picture of the situation at Headquarters with regard to the presence and management of asbestos-containing materials. It was concerned, however, that delegates, staff members and visitors to the buildings continued to be exposed to the risk of inhalation of carcinogenic second-hand smoke. He would like to know whether levels of tobacco smoke were measured as part of air-quality testing.

38. **Ms. Buergo Rodríguez** (Cuba) said that the problem of asbestos in the Headquarters buildings was of deep concern to her delegation. It was to be hoped that the General Assembly would approve the capital master plan and that all Member States would pay their contributions on time so that the Secretariat would have sufficient resources to implement the plan in full.

39. **Mr. Hassan** (Nigeria), speaking on behalf of the Group of 77 and China, expressed satisfaction at the measures taken thus far to manage asbestos-containing materials in the Headquarters buildings.

40. **Mr. Niwa** (Assistant Secretary-General for Central Support Services) said that policy on smoking was the responsibility of the Office of Human Resources Management. However, as he understood it, while a smoke-free building was the best solution, the Organization's international character would make implementation of such a policy difficult. A number of measures had been taken to reduce exposure to second-hand smoke, including the removal of the smoking area in the south Secretariat lobby. His Office was considering posting signs drawing attention to the health risks associated with smoking. No tests were currently carried out to assess the concentration in the air of tobacco smoke, although carbon monoxide testing was performed on a regular basis.

41. **The Chairman** suggested that the Committee should recommend to the General Assembly the adoption of the following draft decision:

"*The General Assembly*,

"*Takes note* of the comprehensive report of the Secretary-General on the asbestos problem contained in document A/54/779 and endorses the recommendations of the Advisory Committee on Administrative and Budgetary Questions contained in paragraph 8 of its report (A/54/7/Add.12)."

42. *It was so decided.*

Organization of work

43. **Mr. Sach** (Director, Programme, Planning and Budget Division), replying to a question posed by the representative of Portugal on behalf of the European Union in informal consultations and again at the Committee's fifty-third meeting, said that the report of the Secretary-General on the administrative and financial issues concerning the Non-Governmental Organizations Section would be submitted to the Committee at the second part of the resumed fifty-fourth session of the General Assembly. It had not been possible to produce a report in time for the first part of the resumed session since consultations with the Department of Economic and Social Affairs were still proceeding. The General Assembly had not in fact specified, in its resolution 54/249, at what point in its resumed session the report should be issued. He noted with concern that a number of delegations had received copies of the draft report from the Department before its finalization. If the Secretariat was to deal with budgetary matters in a consolidated and coherent fashion, it was important that all parties should adhere to established procedures.

44. **Mr. Ramos** (Portugal), speaking on behalf of the European Union, said that his delegation was not insisting that the report should be issued during the first part of the resumed fifty-fourth session of the General Assembly. It had simply wished to be informed as to the likely date of the report's submission.

The meeting rose at 11.40 a.m.